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Attorneys for Defendant
ULI ZANGPO

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARK MORRISON.
Plaintiff,

vs.

ULI ZANGPO,
Defendant.

) No. CV 08 1945 EMC

)

) **NOTICE OF MOTION AND MOTION TO**
) **EXTEND THE DATE OF THE INITIAL**
) **CASE MANAGEMENT CONFERENCE;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES**

)

Notice of Motion

TO PLAINTIFF MARK MORRISON AND TO HIS ATTORNEYS OF RECORD:

Please take notice that Defendant Uli Zangpo makes this motion to extend the date of the initial Case Management Conference.

Relief Sought

Defendant, Uli Zangpo, moves the court for an order extending the date of the initial Case Management Conference from July 16, 2008 to September 17, 2008.

Memorandum of Points and Authorities

The initial Case Management Conference in this proceeding has been set for July 16, 2008. On June 12, 2008, Defendant Uli Zngpo filed two motions to be heard on September 10, 2008—1) a motion to dismiss for lack of jurisdiction and 2) a motion to compel arbitration.

1 The agreement between the parties, which was attached to a declaration in support of the
 2 motion to compel arbitration, provided that “the parties will not be permitted any written discovery or
 3 depositions of any kind.” The Court will need to determine whether this agreement supersedes the
 4 disclosure and discovery obligations and procedures provided by the Federal Rules of Civil Procedure
 5 (and specifically by Rule 26) and by the Civil Local Rules of the Northern District of California.

6 Civil L.R. 6-1(b) provides:

7 A Court order is required for any enlargement or shortening of time that alters an
 8 event or deadline already fixed by Court order or that involves papers required to be filed
 9 or lodged with the Court (other than an initial response to the complaint) A request for a
 10 Court order enlarging or shortening time may be made by written stipulation pursuant to
 11 Civil L.R. 6-2 or motion pursuant to Civil L.R. 6-3. Any stipulated request or motion
 which affects a hearing or proceeding on the Court’s calendar must be filed no later than
 10 days before the scheduled event.

12 Defendant, through his counsel, asked Plaintiff to stipulate to extend the date of the Initial Case
 13 Management Conference. (Declaration of Neil Jon Bloomfield). As of the date of this motion,
 14 Plaintiff has not responded. This motion is being filed more than 10 days before the date set for the
 15 Initial Case Management Conference (July 16, 2008), and is being filed more than 10 days before the
 16 date set as the last day to file Rule 26(f) Report, complete initial disclosures or state objection, and
 17 file Case Management Statement (July 9, 2008)¹

18 The accompanying declaration of Neil Jon Bloomfield complies with the requirement of Civil
 19 L.R. 6-3(a), which requires that the declaration

- 20 (1) Sets forth with particularity, the reasons for the requested enlargement or
- 21 shortening of time;
- 22 (2) Describes the efforts the party has made to obtain a stipulation to the time
- 23 change;
- 24 (3) Identifies the substantial harm or prejudice that would occur if the Court did
- not change the time; and
- 25 (4) If the motion is to shorten time [inapplicable] . . .

26 ¹ This motion is not being filed more than 10 days before the deadline to meet and confer
 27 regarding initial disclosures, early settlement, ADR process selection and discovery plan and the
 28 deadline to file Joint ADR Certification or Notice of Need for ADR Conference (June 25, 2008), but the
 meet and confer and the stipulation to ADR or notice of need for ADR phone conference can be
 accomplished without the potential for conflicting with the agreement between the parties.

1 (5) Discloses all previous time modifications in the case, whether by stipulation or
2 Court order;

3 (6) Describes the effect the requested time modification would have on the
4 schedule for the case.

5 Plaintiff and his attorneys are hereby reminded that pursuant to Civil L.R. 6-3(c), any
6 opposition to this motion must be filed no later than the third court day after receiving the motion.

7 On September 10, 2008, the Court will determine 1) whether it has jurisdiction to hear this
8 case, and 2) if it has jurisdiction, whether the parties' agreement that they will not be permitted any
9 discovery or depositions supersedes the disclosure and discovery obligations and procedures provided
10 by the Federal Rules of Civil Procedure and by the Civil Local Rules. The Court should postpone the
11 Initial Case Management Conference until after it has made these determinations. Postponing the
12 Initial Case Management Conference will not prevent the parties from attempting to resolve their
13 disputes informally.

14 Dated: June 17, 2008

/s/

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16 Neil Jon Bloomfield
17 Attorney for Defendant Uli Zangpo
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